

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: von Herrath et al. Art Unit: 1636
Application No.: 09/336,672 Examiner: William O. Sandals
Filed: June 17, 1999
Title: COMPOSITIONS AND METHODS FOR THE TREATMENT OR
PREVENTION OF AUTOIMMUNE DIABETES

Mail Stop: Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR BEING ABANDONED
UNAVOIDABLY UNDER 37 C.F.R § 1.137(a)

Sir:

Responsive to the Notice of Abandonment mailed April 21, 2003, Applicant hereby petitions for revival of the above-identified application under the provisions of 37 C.F.R. § 1.137(a) on the grounds that the application was abandoned unavoidably by Applicants, and erroneously by the U.S. Patent and Trademark Office. On April 21, 2003 the U.S. Patent and Trademark issued a Notice of Abandonment for Applicant's alleged failure to file a response to the Office Action mailed on January 15, 2002. According to Applicants' records, the Patent and Trademark Office's Patent Application Information Retrieval (PAIR) system, there was no action issued in the above-referenced application on January 15, 2002.

Furthermore, Applicants filed a Response to the Final Office Action mailed December 30, 2002 and Petition for Extension of Time on May 30, 2003 (date stamped by the OIPE on June 2, 2003) and a Notice of Appeal on June 25, 2003 (date stamped by the OIPE on June 30,

RECEIVED

DEC 05 2003

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, December 2, 2003, in an envelope addressed to: Mail Stop: Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.	
Margaret M. Hasson	
Name of Person Mailing Paper	
Signature	Date 12/2/03

2003). As these submissions do not appear on the PAIR system, Applicants enclose copies herewith.

The USPTO PAIR system reflects the following action during this time frame:

<u>Date</u>	<u>Action</u>
7/16/01	Non-Final Rejection
7/17/03	Mail Non-Final Rejection
2/28/02	Correspondence Change of Address
2/12/02	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received
2/12/02	Request for Extension of Time – Granted
2/12/02	Response after Non-Final Action
2/28/02	Date Forwarded to Examiner
2/28/02	X-Pre-Legal Complete Amended Case
3/12/02	Supplemental Response
2/19/02	Date Forwarded to Examiner
6/3/02	Non-Final Rejection
6/4/02	Mail Non-Final Rejection
10/7/02	Request for Extension of Time – Granted
10/7/02	Response after Non-Final Action
10/15/02	Date Forwarded to Examiner
12/30/02	Mail Final Rejection (PTOL – 326)
4/18/03	Abandonment for Failure to Respond to Office Action
4/21/03	Mail Abandonment for Failure to Respond to Office Action

In view of the forgoing, Applicants hereby petition for the above-application to be revived. Applicants believe that, since the erroneous abandonment was not the fault or failure to respond on the part of the Applicants, no petition fee is due. Accordingly, no petition fee is enclosed. However, if it is deemed that the error was that of the Applicants, Applicants request

In re Application of: von H. [redacted]th
Application No.: 09/336,672
Filed: June 17, 1999
Page 3

PATENT
Attorney Docket No. SCRIPI100

that any such fees, or any credits, be charged to Deposit Account No. 50-1355. If the Examiner would like to discuss any of the issues raised herein, Applicant's representative can be reached at (858) 677-1416.

Respectfully submitted,

Date: Dec 2, 2003

June M. Learn
June M. Learn, J.D.
Registration No.: 31,238
Telephone: (858) 677-1416
Facsimile: (858) 677-1465

USPTO CUSTOMER NUMBER 28213
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133